

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7942 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

AIMS OXYGEN PVT. LTD.

Versus

UNION OF INDIA

Appearance:

MS FALGUNI M JOSHI for Petitioner
MR AKSHAY MEHTA FOR the respondents.

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE H.K.RATHOD

Date of decision: 12/10/1999

ORAL JUDGEMENT(Per J.N.Bhatt, J.)

Rule, service of which is waived by learned counsel Mr
Akshay Mehta for the respondents.

The main grievance of the petitioner is against the
inaction, in non-hearing, of the application for stay
pending the appeal by the appellate authority and at the
same time taking recourse to coercive action. In other

words, the department is seeking to enforce the impugned demand by resorting to coercive recovery without considering and deciding the merits of the stay application. There is no dispute about the factual aspects. In many such similar matters, this Court has taken the view that the stay application should be decided and until it is determined, obviously, no coercive action should be initiated against the assessee.

In view of the aforesaid undisputed facts, respondent No.2 is directed to dispose of the stay application pending appeal within a period of four weeks and no coercive measures shall be taken by respondent authorities until the stay application is decided.

Accordingly, rule is made, partly, absolute with no order as to costs.

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(vjn)